IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APELLATE JURISDICTION

CRIMINAL APPLICATION NO.7464 OF 2005

Shri Manohar Bhaguji Alhat .. ..Applicant

Versus

The State of Maharashtra .. ..Respondent

Mr.R.S.Deshpande for applicant

Mrs.S.D.Shinde, APP for respondent

CORAM : S.C.DHARMADHIKARI, J.

DATE : 18TH NOVEMBER,2005.

P.C.:

1. Heard Mr. Deshpande for the applicant and Mrs.Shinde, APP for the State.

2. The Cooperative Credit Society of the Ordinance Depot Employees at Pune had on its Board of Directors the Applicant before me. The Manager of the Cooperative Society opted for voluntary retirement. Upon such

voluntary retirement, terminal benefits were paid to the said Manager.

3. It is the case of the applicant that no dispute was raised by the said Manager and he accepted the amount in full and final settlement.

4. On the basis of some audit objections way back in the year 2002, a complaint was filed alleging offences under Sections 409 r/w 34 of I.P.C. against the Manager and the Directors. The Manager as well as 11 other Directors were granted anticipatory bail.

5. The applicant applied for similar relief but the learned Sessions Judge was of the view that the applicant was not traceable and absconding and therefore, does not deserve anticipatory bail.

6. In the light of the well settled principles and more particularly the amendment to Section 438 in the State of Maharashtra, the applicant deserves anticipatory bail. This is not a case where the applicant who is one of the Directors and acting on the resolution of the Board of Directors can alone be held

responsible for payment, which is allegedly in excess. If the applicant is also a Director along with others, and they are enlarged on bail in the event of their arrest in connection with the above offence, then there is no reason why he should be detained in custody.

7. I have perused the order passed in the case of other accused by Addl. Sessions Judge. For the reasons recorded therein and the case of the applicant being identical, he is also entitled to be released on bail in connection with C.R.No.49 of 2005 registered at Dehu Road Police Station, Pune. The applicant is senior citizen and has retired. He is a permanent resident of Pune.

. Accordingly, the following order :

(a) The applicant shall be enlarged on bail in the event of his arrest in connection with C.R.No.49 of 2005 of Dehu Road Police Station, Pune subject to furnishing a personal bond.

(b) The applicant accused undertakes to attend Dehu Road Police Station as and when

required.

(c) The bail is granted subject to condition that the applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of accusation against him so as to dissuade him from disclosing such facts to the court or to the police officer/investigating agency. The applicant shall not tamper with the prosecution evidence.

(d) Any observations made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

(e) The order will enure to the benefit of the applicant only till charge sheet is filed. There after he will be free to apply to the appropriate court for appropriate relief.

(f) Application is disposed of in above terms.

(S.C.Dharmadhikari, J.)